

Atty. Dkt. No. 073406-0701

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Pelletier, et al.

Title: COMPOSITIONS AND
METHODS INVOLVING AN
ESSENTIAL STAPHYLOCOCCUS
AUREUS GENE AND ITS
ENCODED PROTEIN STAAU R9

Appl. No.: 10/025,222

Filing Date: 12/19/01

Examiner: Unassigned

Art Unit: 1645

<p>CERTIFICATE OF MAILING</p> <p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450, on the date below.</p> <p><u>Wesley B. Ames</u> (Printed Name)</p> <p><u>Wesley B. Ames</u> (Signature)</p> <p><u>October 30, 2003</u> (Date of Deposit)</p>

PETITION UNDER 37 C.F.R. § 1.48(a) TO CORRECT INVENTORSHIP

Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicant hereby petitions under 37 C.F.R. § 1.48(a) to correct inventorship to name the following additional inventor: **Dominique Bergeron**. Applicant submits, concurrently herewith, the following:

- 1) A statement from the person being added as an inventor that the error in inventorship occurred without deceptive intention on her part;
- 2) A new declaration by the actual inventor;
- 3) The requisite fee under 37 C.F.R. § 1.17(i); and
- 4) The written consent of the assignee of the original named inventors.

Applicant respectfully requests entry of the correction of inventorship. Should there be any deficiencies in or questions raised by the present filing, Applicant's

undersigned representative can be reached by telephone to promptly address and resolve such issues.

[X] The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872.

Please direct all correspondence to the undersigned attorney or agent at the address indicated below.

Respectfully submitted,

Date 10/30/03

By Wesley B. Ames

FOLEY & LARDNER

Customer Number: 30542



30542

PATENT TRADEMARK OFFICE

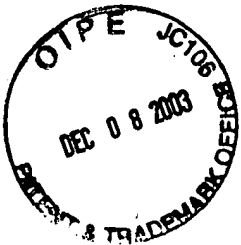
Telephone: (858) 847-6714

Facsimile: (858) 792-6773

Wesley B. Ames

Attorney for Applicant

Registration No. 40,893



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STATEMENT OF ASSIGNEE CONSENTING TO CHANGE IN INVENTORSHIP

Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

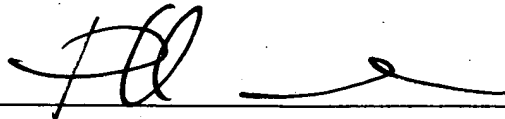
Sir:

Phagotech, Inc. is the assignee of the entire interest in the above captioned application as shown by the assignment recorded at reel 012957, frame 0520 and the assignment from Dominique Bergeron to Phagotech, Inc. signed July 24, 2003 and submitted August 9, 2003.

Phagotech, Inc. hereby consents to the correction of the inventorship of the above captioned application by the addition of Dominique Bergeron as a co-inventor.

The undersigned hereby states that he/she has authority to act on behalf of
Phagotech, Inc.

Date October 23, 2003

By 

Name PIERRE ETIENNE

Title PRESIDENT AND CEO



Atty. Dkt. No. 073406-0701

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Pelletier, et al.

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STATEMENT OF DOMINIQUE BERGERON

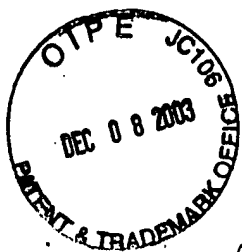
Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Sir:

I hereby state that the failure to include me, Dominique Bergeron, as an inventor for the above identified application occurred without deceptive intention on my part.

Date 24 oct. 2003

By D Bergeron
Dominique Bergeron



DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I HEREBY DECLARE:

THAT my residence, post office address, and citizenship are as stated below next to my name;

THAT I believe I am the original, first, and sole inventor (if only one inventor is named below) or an original, first, and joint inventor (if plural inventors are named below or in an attached Declaration) of the subject matter which is claimed and for which a patent is sought on the invention entitled

COMPOSITIONS AND METHODS INVOLVING AN ESSENTIAL STAPHYLOCOCCUS AUREUS
GENE AND ITS ENCODED PROTEIN STAAU_R9

(Attorney Docket No. 073406-0701)

the specification of which (check one)

 is attached hereto.

 X was filed on 12/19/2001 as United States Application Number or
PCT International Application Number 10/025,222 and was
amended on (if applicable).

THAT I do not know and do not believe that the same invention was ever known or used by others in the United States of America, or was patented or described in any printed publication in any country, before I (we) invented it;

THAT I do not know and do not believe that the same invention was patented or described in any printed publication in any country, or in public use or on sale in the United States of America, for more than one year prior to the filing date of this United States application;

THAT I do not know and do not believe that the same invention was first patented or made the subject of an inventor's certificate that issued in any country foreign to the United States of America before the filing date of this United States application if the foreign application was filed by me (us), or by my (our) legal representatives or assigns, more than twelve months (six months for design patents) prior to the filing date of this United States application;

THAT I have reviewed and understand the contents of the above-identified specification, including the claim(s), as amended by any amendment specifically referred to above;

THAT I believe that the above-identified specification contains a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention, and sets forth the best mode contemplated by me of carrying out the invention; and

THAT I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I HEREBY CLAIM foreign priority benefits under Title 35, United States Code §119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or §365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's certificate or of any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number	Country	Foreign Filing Date	Priority Claimed?	Certified Copy Attached?

I HEREBY CLAIM the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below.

U.S. Provisional Application Number	Filing Date
60/256,349	12/19/2000

I HEREBY CLAIM the benefit under Title 35, United States Code, §120 of any United States application(s), or § 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. Parent Application Number	PCT Parent Application Number	Parent Filing Date	Parent Patent Number

I HEREBY APPOINT the following registered attorneys and agents of the law firm of FOLEY & LARDNER:

WESLEY B. AMES	Reg. No. 40,893
SANJEEV K. DHAND	Reg. No. 51,182
DEBRA D. NYE	Reg. No. 48,260
STEPHEN E. REITER	Reg. No. 31,192
RICHARD M. SANPIETRO	Reg. No. 45,071
TERESA SPEHAR	Reg. No. 51,281
STACY L. TAYLOR	Reg. No. 34,842
RICHARD J. WARBURG	Reg. No. 32,327
ARTHUR A. WELLMAN	Reg. No. 47,174
BARRY S. WILSON	Reg. No. 39,431

to have full power to prosecute this application and any continuations, divisions, reissues, and reexaminations thereof, to receive the patent, and to transact all business in the United States Patent and Trademark Office connected therewith.

I request that all correspondence be directed to:

Wesley B. Ames
 FOLEY & LARDNER
 P.O. Box 80278
 San Diego, California 92138-0278
 Telephone: (858) 847-6714
 Facsimile: (858) 792-6773

I UNDERSTAND AND AGREE THAT the foregoing attorneys and agents appointed by me to prosecute this application do not personally represent me or my legal interests, but instead represent the interests of the legal owner(s) of the invention described in this application.

I FURTHER DECLARE THAT all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Name of first inventor	Jerry Pelletier
Residence	Baie-D'Urfe, Quebec
Citizenship	Canadian
Post Office Address	8 Lakeview Baie-D'Urfe Quebec H9X 3B1 Canada
Inventor's signature	<i>Jerry Pelletier</i>
Date	October 23, 2003

Name of second inventor	Philippe Gros
Residence	St. Lambert, Quebec
Citizenship	Canadian
Post Office Address	107 Montrose St. Lambert Quebec J4R 1X4 Canada
Inventor's signature	<i>Philippe Gros</i>
Date	<i>October 24, 2003</i>
Name of third inventor	Michael DuBow
Residence	Antony, France
Citizenship	Canadian
Post Office Address	36, rue Albert Camus F-92160 Antony France
Inventor's signature	<i>Michael S. DuBow</i>
Date	<i>23/10/03</i>
Name of fourth inventor	Dominique Bergeron
Residence	Montreal, Quebec
Citizenship	Canadian
Post Office Address	3639 Ave. Laval Montreal Quebec H2X 3E1 Canada
Inventor's signature	<i>D Bergeron</i>
Date	<i>23 oct 2003</i>